

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JOSEPH M. MILLER,

Plaintiff,

v.

Case No. 2:23-cv-02315-MSN-atc

CITY OF MEMPHIS

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION FOR PARTIAL SUA
SPONTE DISMISSAL AND TO ISSUE PROCESS ON THE REMAINING CLAIM**

Before the Court is the Magistrate Judge’s Report and Recommendation (“Report”) entered on January 16, 2024. (ECF No. 8.) The Report recommends that Plaintiff Joseph Miller’s claims for Lanham Act false advertising provision, U.S.C. § 1125; Federal Trade Commission Act’s (“FTC Act”) false advertising, 15 U.S.C. § 54; defamation/slander under 28 U.S.C. § 4101; and violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 be dismissed with prejudice for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The Report also recommends that Plaintiff’s 42 U.S.C. § 1983 false arrest claim be allowed to proceed and that process be issued and served on the City of Memphis. The Plaintiff had fourteen (14) days to submit objections to the Report. (*Id.* at PageID 36.) To date, Plaintiff has not submitted an objection.¹

¹ Plaintiff also filed a Pro Se Motion for Disbursement of Funds (ECF No. 10), seeking \$20,000,000 related to his false arrest claim. However, no judgment has been entered in Plaintiff’s favor that would entitle him to such funds. As the motion is premature, it is hereby **DENIED WITHOUT PREJUDICE**.

STANDARD OF REVIEW

Congress enacted 28 U.S.C. § 636 to relieve the burden on the federal judiciary by permitting the assignment of district court duties to magistrate judges. *See United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001) (citing *Gomez v. United States*, 490 U.S. 858, 869–70 (1989)); *see also Baker v. Peterson*, 67 F. App'x 308, 310 (6th Cir. 2003). For dispositive matters, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. §636(b)(1). After reviewing the evidence, the court is free to accept, reject, or modify the magistrate judge’s proposed findings or recommendations. 28 U.S.C. § 636(b)(1). The district court is not required to review—under a *de novo* or any other standard—those aspects of the report and recommendation to which no objection is made. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). The district court should adopt the magistrate judge’s findings and rulings to which no specific objection is filed. *See id.* at 151.

DISCUSSION AND CONCLUSION

The Magistrate Judge issued her Report on January 16, 2024. (ECF No. 8.) The Plaintiff had until January 30, 2024, to submit any objections to the Report’s findings. To date, no objections have been filed. The Court has reviewed the Report for clear error and finds none.

Accordingly, the Court **ADOPTS** the Report and Recommendation in its entirety. Plaintiff’s claims under the Lanham Act’s false advertising provision, FTC Act’s false advertising provision, slander/defamation under § 4101, and FOIA violations are **DISMISSED WITH PREJUDICE** for failure to state a claim. Plaintiff’s § 1983 false arrest claim will proceed.

The Clerk shall issue process for Defendant City of Memphis and deliver said process, along with a copy of the Complaint, the R&R, and this Order, to the U.S. Marshal for service in accordance with Fed. R. Civ. P. 4(j). All costs of service shall be advanced by the United States.

IT IS SO ORDERED, this 17th day of October, 2024.

s/ Mark S. Norris

MARK S. NORRIS

UNITED STATES DISTRICT JUDGE